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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,361	03/26/2004	Peter Heiland	2133.031USU	1260

7590 05/26/2006

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EXAMINER

UNDERWOOD, DONALD W

ART UNIT PAPER NUMBER

3652

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/810,361	Applicant(s) HEILAND ET AL.	
	Examiner Donald Underwood	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03/21/06.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 and 16-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The instant claims are inaccurate. The phrase "tong-like" requires the arms be pivoted together as per Webster's New World Dictionary copy write 1972 and 1970. In the instant invention the arms are not pivoted together.

The instant claims are also indefinite. The phrase "disk-like" is deemed to be similar to the phrase "or the like" discussed in MPEP 706.03 (d). While applicants' arguments set forth what this phrase intends it still appears to be open ended and thus indefinite.

Claims 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 16, the deletion of "having" in lines 4 and 10 renders the claim indefinite since the transporters and arms are not correlated to define an operative device. It appears the first set of arms should be correlated with the first transporter and the second set, with the exchange region. See, figure 14. Clarification is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-7, 9-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki, et al. in view of newly cited Martelee.

It would have been obvious to substitute lever controlled arms for the arms in Yamazaki in view of the teaching in Martelee. This substitution would have been an obvious substitution of equivalents. Note this would still require the vertical movement in both references.

Regarding claim 9, it would have been obvious to enclose the new levers in a conventional housing to enhance safety.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki, et al. in view of newly cited Martelee as applied to claim 7 above, and further in view of Redmon, Jr. et al.

It would have been obvious to contour the gripper and provide a groove to complement the disk-like member to enhance operation in view of the teaching in Redmon (figure 1).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki, et al. in view of newly cited Martelee as applied to claim 1 above, and further in view of Lange.

It would have been obvious to provide a sensor on the pickup in Yamazaki as modified by Martelee in view of the teaching in Lange (element 11) to enhance pickup operation.

Claims 20-24, 26-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over newly cited Bauman in view of Yamazaki, et al.

It would have been obvious to substitute a spindle and motor similar to 10 and 18 in Yamazaki for the actuators in Bauman in view of the teaching in Bauman, column 4, lines 50-57.

Regarding claim 22, the grippers in Bauman have an infinite number of positions. Note the grippers can be stopped at almost any position.

Regarding claim 27, the grippers in Bauman can load from the top or bottom, i. e., front or back.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over newly cited Bauman in view of Yamazaki, et al. as applied to claim 24 above, and further in view of newly cited Redman, Jr., et al.

It would have been obvious to provide grooves in the circular grippers in Bauman in view of the grooves in Redmon.

Claim 15 is allowed.

Applicants' arguments regarding the 35USC112 rejection as per "tong-like" or "disk-like" have been carefully considered but are not deemed persuasive for the reasons set forth in the above 35USC112 rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Donald Underwood* 05/24/06  
Donald Underwood  
Primary Examiner  
Art Unit 3652

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